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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,647	10/11/2001	Thomas H. Wright	ASD-15; H6206 (51021 CON1	2560

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ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.  
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE  
P.O. BOX 3791  
ORLANDO, FL 32802-3791

EXAMINER

CROSLAND, DONNIE L

ART UNIT	PAPER NUMBER
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2632

DATE MAILED: 08/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/976,647

Applicant(s)

WRIGHT ET AL.

Examiner

DONNIE L. CROSLAND

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 59-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 59-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

Claims 59-75 of this application has been copied by the applicant from U. S. Patent No. 6,181,990. These claims are not patentable to the applicant because of the rejection that follows.

An interference cannot be initiated since a prerequisite for interference under 37 CFR 1.606 is that the claim be patentable to the applicant subject to a judgment in the interference.

#### ***Claim Rejections - 35 USC § 112***

Claims 59-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

*In claim 59, "said cellular information" has no antecedent basis.*

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 59, 62-70, and 75 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ross et al.

Ross shows an aircraft data transmission system, the aircraft having a data acquisition unit 10 comprising a communication unit 24 located in the aircraft and in communication with the data acquisition unit 10; a cellular infrastructure (col. 4, lines 40-50) in communication with the communication unit 10 after the aircraft has landed, wherein the communication is initiated automatically upon landing of the aircraft; and a data reception unit 32 in communication with the cellular infrastructure, see col.5, lines 48 et seq., wherein after the aircraft has landed, a second switch 14 communicates with the controller 10; further in col. 6, lines 13-36, acquired aircraft data is automatically communicated to the flight center's controller 32 upon the aircraft being downed. The term downed equates to landing, Also, see claims 12 and 13.

Accordingly, Ross clearly anticipates these claims in disclosing the automatic activation of a switch associated with the landing or downing of the aircraft in which relevant acquired data is communicated through a cellular infrastructure to a ground base receiver.

With respect to claim 62, Ross discloses a modem, col. 6, lines 48-51.

With respect to claim 63 an antenna is inherent in cellular infrastructures of Ross.

With respect to claim 64 the recited "router" is inherent in the cellular infrastructure of Ross are conventionally associated with cell infrastructures.

With respect to claim 69 recitation of a digital flight data acquisition unit, Ross discloses controller 10 can be a TI Travelmate 4000, col. 6, lines 37-40.

With respect to claim 67, receiver for data can be a mainframe, col. 5, lines 1-4.

Claims 65, 68, and 69 are clearly met by Ross as discussed above.

Claim 75 is clearly met by Ross with respect to processors in both the aircraft and the ground station each processing information with respect to a computer readable medium as illustrated in the flow chart in figure 2.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 60, 61, 71, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al in view of Miller et al (5,652,717) and Bannister.

Miller shows in figure 2 the acquisition of data from an aircraft 14, col. 2, lines 34-45, and provides for a telecommunication network 22 and internet communication, col. 3, lines 4-18, 65 et seq.

Miller is relied upon to show that it is conventional to manipulate the data received from the aircraft 14 through an Internet connection 30.

Claims 60 and 71 only recite that the data reception unit is in communication with the cellular infrastructure via the internet.

Cellular infrastructure is clearly as 24 in Ross et al.

The internet connection 30 which is at the reception unit provides an internet access as disclosed by Miller

Accordingly, it would have been obvious to one having ordinary skill in the art to provide an internet connection for communication purposes in a reception unit because the specific use of providing an internet connection for communication purposes in an reception unit concerned with aircraft data acquisition and transmission is clearly suggested by Miller, see col. 3, lines 25-44, and specifically lines 40-44, for interactive internet support.

Bannister shows a data acquisition system and provides for conventional PSTN interfaced with the Internet, see figure 1 and related disclosure.

Accordingly, Bannister teaches the artisan the combined use of PSTN AND INTERNET.

Accordingly, at the time the invention was made, the combined use of cellular communication, internet access, and PSTN are all well known and conventional as evidenced by the teachings of the references as discussed above.

Once the skilled artisan recognizes that the internet is employed at the reception unit of Ross as suggested by Miller, the skilled artisan would further recognize the use and advantages of employing conventional PSTN cellular infrastructure for internet communication as evidenced by the teachings of Bannister.

Patentable invention is not involved in employing internet connection through the cellular phone system such as conventional (PSTN), see Bannister.

Claims 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ross et al in view of Polivka et al, cited by applicants.

Polivka shows in an aircraft data acquisition and transmission means as shown in figure 3a and 3b, and provides for the acquisition of data such as a video camera 327 I figure 3a, compressing (323, figure 3a), encrypting (such as forward error correction encoder unit 330, figure 3b), segmenting and constructing packets of data from the segmented flight data (PSK/SPREAD spectrum modulator 361 in figure 3b), see col. 10, lines 13 et seq.

With respect to claim 74, the acknowledgement of receipt of the transmitted data is no more than the response due to the video teleconference as provided for in Polivka, col. 10, such is no more than conventional bi-directional communication and would not involve patentable invention.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thornberg et al is cited as showing the conventional acquisition and transmission of data packet using the cellular telecommunication medium.

Honcik et al is cited as showing the conventional data acquisition and transmission with respect to aircraft data management.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone number is (703) 305-4388. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A Hofsass can be reached on (703) 305-4717. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9052 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

dlc   
August 6, 2002

  
DONNIE L. CROSLAND  
Primary Examiner  
Art Unit 2632

  
APPROVED:  
JIN F. NG  
DIRECTOR, TC 2600